(S/3)

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN

AT JODHPUR

..

:: ORDER ::

Smt. Nirmala Jeengar Vs. Rakesh Chandra

S.B. CIVIL WRIT PETITION NO.170/2006.

Date of Order :::: 15.05.2006.

PRESENT

HON'BLE MR. JUSTICE DINESH MAHESHWARI

Mr. Sanjay Nahar, for the petitioner.
Mr. Sandeep Saruparia, for the respondent.

...

BY THE COURT:

Heard learned counsel for the parties finally.

This writ petition has been submitted against the order dated 05.12.2005 (Annex.4) whereby the learned District Judge, Bhilwara while trying an application under Section 13 of the Hindu Marriage Act has refused to permit production of a document on record, said to be the proceedings dated 26.01.2003 in the Community Panchayat of the parties. The

learned trial court has refused the application on the ground that neither such proceedings were referred in the pleadings nor divulged during the entire evidence of the applicant.

Learned counsel for the petitioner, while referring to the decision of this Court in Madan Lal & Anr. Vs. Rent Tribunal, Alwar & Anr. : 2006(4) RDD 2413 (Raj.) has submitted that the document in question being directly necessary for just and effectual determination of the questions in controversy; and when the proceedings of earlier attempts for settlement have already been referred in cross-examination during the evidence of the applicant, such document ought to have been permitted to be taken on record in the interest of justice. Learned counsel for the respondent initially attempted to oppose the prayer made in the petition and submitted that the learned trial court has not committed any illegality in rejecting the application, however, having regard to the circumstances, learned counsel fairly submitted that in the interest of justice, the document may be taken on record but then the respondent-applicant be permitted to rebut the same because that has been the specific statement of the husband-applicant that the document was a pure fabrication.

Having regard to the facts and circumstances of the case and the submissions made by the learned counsel for the parties, it appears appropriate that the document be

permitted to be placed on record, however, the applicant-husband deserves specific opportunity to place its rebuttal on record by way of pleadings and evidence, oral and documentary.

Consequently, the writ petition is allowed to the extent indicated above; the impugned order dated 05.12.2005 is set aside; the document (Annexure-2) dated 26.01.2003 is permitted to be taken on record, subject of course to the condition that the respondent-applicant shall be afforded complete opportunity to place his rebuttal on record by way of pleadings and evidence, oral and documentary.

(DINESH MAHESHWARI), J.

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